IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6452 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANGAL TEXTILES

Versus

JUVANSINH NATWERSINH JHALA

Appearance:

MR YN OZA for Petitioner

MR GM JOSHI for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 17/02/2000

ORAL JUDGEMENT

1. This is a petition under Article 227 of the Constitution though styled as one under Article 226 and 227.

2. Before discussing the merits of the present petition, it is desirable to bear in mind the principles laid down by the Supreme Court in the context of the scope and ambit, and the powers and limitations of the High Court, while exercising jurisdiction under Article 227 of the Constitution of India. The Supreme Court, in the case of Mohmmad Yunus v/s Mohammad Mustaqim [AIR 1984 SC 38] and Khali Ahmed Bashir v/s Tufelhussein S. Sarangpurwala [AIR 1988 SC 184], has held that the High Court, while examining a petition under Article 227 of the Constitution of India, cannot reappreciate the evidence and cannot disturb the findings of fact recorded by the courts below except where the same are perverse, and even errors of law cannot be corrected.

3. The petitioner herein is the employer who challenges the judgement and award passed by the Labour Court in Reference [LCA] No.692/90 wherein the employee has been directed to be reinstated with full backwages. The main basis of this award is the finding of fact recorded by the Labour Court that the retrenchment effected by the employer [on which there is no controversy] is not in accordance with law and particularly that there is a violation of section 25[F] of the I.D.Act.

4. This finding of fact is arrived at on the admitted facts of the case.

The respondent - employee was retrenched as per the seniority list which was put up on the notice board [exh. 13]. The order directing the retrenchment is at exh.14. As part of the very same order, the workman has been told that he should collect the retrenchment compensation from the office, amounting to Rs.1,643=35. What specifically requires to be noted is that the retrenchment compensation computed by the employer to be due and payable to the employee is quantified at Rs.1,643=35. However when the company transmitted this amount to the workman [by two money orders], the sum total of the two money orders comes to only Rs.1,409=55. Obviously therefore, the amount of retrenchment compensation which was tendered to the workman, is not the entire amount which was due and payable to the workman, even as per the computation of the employer itself. Obviously therefore, there is a violation of section 25[F] of the I.D.Act, and consequently therefore, the termination of the workman is liable to be quashed and set aside.

5. In the premises aforesaid, I find no

justification for interference with the judgement and award passed by the Labour Court, and consequently this petition is liable to be dismissed. Accordingly, rule is discharged with no orders as to costs. Ad interim relief stands vacated.

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